

ESTTA Tracking number: **ESTTA398542**

Filing date: **03/17/2011**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	Jeffrey Kaplan		
Entity	Individual	Citizenship	UNITED STATES
Address	POB 11106 Fort Lauderdale, FL 33339 UNITED STATES		

Correspondence information	Jeffrey Kaplan POB 11106 Fort Lauderdale, FL 33339 UNITED STATES eggcream@earthlink.net Phone:954-793-0637
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Registration Subject to Cancellation

Registration No	322305	Registration date	03/05/1935
Registrant	DEL MONTE CORPORATION 1075 Progress Street Pittsburgh, PA 15212 UNITED STATES		

Goods/Services Subject to Cancellation

Class U046 (International Class 031). First Use: 1934/09/23 First Use In Commerce: 1934/09/23 All goods and services in the class are cancelled, namely: CANNED CAT FOOD

Grounds for Cancellation

Abandonment	Trademark Act section 14
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Attachments	PetitiontocanceltrademarkPuss'nboots.pdf (3 pages)(12013 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Jeffrey Kaplan/
Name	Jeffrey Kaplan
Date	03/17/2011

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 0322,305
For the Mark PUSS' N BOOTS

Jeffrey Kaplan,

Cancellation No: Pending

Petitioner,

v.

Del Monte Corporation,

Respondent

PETITION FOR CANCELLATION

1. Jeffrey Kaplan (hereinafter the "Petitioner") is an individual whose is located and is doing business at P.O.B. 11106 Fort Lauderdale, Florida 33339. To the best of Petitioner's knowledge, Del Monte Corporation (hereinafter the "Respondent") is a Corporation with its place of business at 1075 Progress Street Pittsburg, PA 15212.

2. The Petitioner believes it is or will be damaged by Respondent's U.S. Trademark Registration No. 0322305 for the mark PUSS'N BOOTS for canned cat food registered on March 5th 1935.

3. The above-identified Petitioner believes that it is, or will be, damaged by the above identified registration and hereby petitions to cancel the same. The grounds for this cancellations is as follows:

ABANDONMENT UNDER SECTION 45 OF THE TRADEMARK ACT

4. On information and belief, Respondent has abandoned Registration No. 0322305 by discontinuing use of the mark for a period of three (3) years or more with no intent to resume use.

5. Petitioner is likely to be damaged by continuance of said registration in that Petitioner intends use of the same or similar mark and will be impaired by the continued registration of said abandoned mark of Respondent.

6. Petitioner intends to use and register the mark PUSS'N BOOTS for cat food International Class 31, by virtue of U.S. Serial No. 85269420 filed on March 17th 2011.

7. Concurrent use and registration of the mark by the Respondent and Petitioner is likely to result in irreparable damage to Petitioner's reputation and good will if Petitioner claims ownership of the Petitioner's mark PUSS'N BOOTS in U.S. Serial No. 85269420.

8. Petitioners and Respondents application and registrations are for nearly identical marks and identify nearly the same goods, that the marks are used in connection with.

9. If the Respondent is permitted to retain the registrations sought to be cancelled, a cloud would be placed on Petitioner's title in and to its trademark PUSS'N BOOTS, and on its right to enjoy the free and exclusive use thereof in connection with the sale of its goods and services, all to the great injury of Petitioner.

WHEREFORE, Petitioner respectfully requests that its Petition be granted in its entirety and that Registration No. 0322305 - PUSS' N BOOTS for canned cat food be cancelled.

Respectfully Submitted,

/ Jeffrey Kaplan/
POB 11106
Ft. Lauderdale, Florida 33339
(954) 793-0637 3-17-11

CERTIFICATE OF MAILING

It is hereby certified that the attached Petition for Cancellation is being deposited
First Class Postage Prepaid with the U.S. Postal Service addressed to Del Monte Foods
c/o Timoth S. Ernst- One Market @ The Landmark, POB 193575 San Francisco, CA
94119

/Jeffrey Kaplan/
3/17/11